

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

April 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

**SUBJECT: Request to Use Diamond Head State Monument Once a Year for
Two Years for a Two-Day Diamond Head Crater Celebration**

The Diamond Head International Music Festival (Applicant), Inc., has requested permission to hold a two-day (on a Saturday and Sunday) music festival at Diamond Head State Monument, which is known as the Diamond Head Crater Celebration (Event), annually for two consecutive years in 2011 and 2012 (Attachment 1). The Diamond Head International Music Festival, Inc. (aka GM Entertainment) previously obtained Board approval on October 22, 2004, (Attachment 2) for the Event held on April 1, 2006, and on June 23, 2006 (Attachment 3) for the Event held on May 19, 2007. While the Board Approval given on June 23, 2006, allowed for a second event in 2008, none was held.

Both Diamond Head Crater Celebrations were successful events, with over 6,000 persons in attendance for each Event. The Applicant abided by all the conditions set by the Board for those Events. The Events had no significant effects on the natural resources of the Monument, and minimal impacts on the surrounding community (Attachments 4, 5, and 6, Board Briefings).

In the October 22, 2004 Board submittal (Attachment 2), multiple issues and concerns raised by neighborhood board members and the Diamond Head Citizen's Advisory Committee (DHCAC) were addressed, including logistics, parking, traffic, fire, noise, security, sanitation, consistency with the Diamond Head Master Plan Update and setting a precedent for future events. The Applicant proposed solutions to many of these concerns, which were also presented in the Board submittal. In response to these concerns, the Board's approval placed numerous conditions upon the applicant.

The Diamond Head International Music Festival, Inc., will attend neighborhood board meetings and meetings of the DHCAC to share their proposal for additional Crater Celebrations and hear concerns expressed by community members. The DHCAC has taken a position opposing these events at Diamond Head State Monument. However, the

DHCAC has developed criteria under which some sort of event would be appropriate in Diamond Head State Monument. These recommendations are attached (Attachment 7.)

If permitted, the actual dates in 2011 and 2012 will be finalized based upon the availability of key artists and local participants. The Event will occur over a two-day period, on a Saturday and Sunday. The Event will end each night by 10:00 p.m., by which time all the patrons will have vacated the crater. The Applicant is preparing to accommodate 7,500 paying patrons for each Event.

The park will remain open to the public from 6:00 a.m. to 12:00 p.m. on the Saturday and Sunday of the Diamond Head Crater Celebration. State Parks will also coordinate with the Applicant to clear the park visitors from the park prior to the beginning of the Event each day.

The success of the previous Diamond Head Crater Celebrations have demonstrated that such events can be held within Diamond Head State Monument with minimal to no significant effect on the resources and the surrounding community. Events such as these in the Monument can also be a source of revenue for the Department and the Division of State Parks with these funds being used to improve visitor services at Diamond Head State Monument and other State parks.

RECOMMENDATION:

This is being submitted for the Board's consideration. In deference to the DHCAC, staff defers to their recommendations. The DHCAC recommendations are attached as Attachment 7.

Should these events be approved, staff recommends the following conditions, consistent with the previous Board approval. Staff recommends changes to the following conditions from the previous Board approval (conditions number 3, 4, and 5)

1. hold the Event held within the confines of the crater;
2. coordinate with the appropriate Department of Defense entities;
3. agree to keep the park open to the public from 6:00 a.m. to 12:00 p.m. on days of the Event, and to assist State Parks in clearing the park visitors out of the park area at 12:00 p.m. on those days;

4. sign an Agreement with the Department (subject to review and approval of the Office of Attorney General) and pay a non-refundable deposit of \$2,100.00 to the Division of State Parks to reserve the Monument at least 90 days prior to the Event;
5. pay the Division of State Parks \$50,000.00, or 5% of gross revenues, whichever is more, for rental of the Monument for the Event;
6. be authorized to collect entry fees for the event and collect funds for food and beverages, event mementos and/or other related concert items within the park during the event, and to pay the Division of State Parks 5% of gross receipts of food, beverage, event mementos and/or other related concert items (merchandise) during the Event;
7. pay for security by Division of Conservation and Resources Enforcement Officers during set-up and take-down for the Event, and whenever Event personnel are on-site in the Monument;
8. provide and pay for security for the Event, in addition to the Division of Conservation and Resources Enforcement personnel;
9. procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$2,000,000 for each occurrence and \$4,000,000 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire Event Site, including all grounds and all roadways or sidewalks on or adjacent to the Event Site in the use or control of the Permittee;
10. sell alcoholic beverages in compliance with all City and County of Honolulu Liquor Commission rules and regulations;
11. operate food service in compliance with all applicable State Department of Health rules and regulations;
12. be allowed to film and/or record the event and distribute these materials with no additional fees or royalties paid to the State;

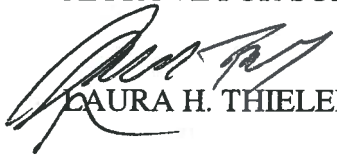
13. waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agrees to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of and in any way connected with the activities permitted under the permit;
14. provide a site plan, transportation, parking and access plan, fire plan, security plan, and evacuation plan to be approved by the Chairperson prior to the Event;
15. be responsible for clean-up of the Event Site;
16. be liable for repairs, replacement and/or payment for any damages incurred at the Event Site during the period of this permit;
17. provide (with Division of State Parks staff) a report to the Board, before and after the Event, discussing what the impacts were and how they were mitigated;
18. include Hawaiian music performers in the Event;
19. provide, during each day of the Event, a briefing, which will include the cultural and natural significance of Diamond Head State Monument;
20. authorize the Chairperson to negotiate and sign the final agreement on behalf of the Department and the Board of Land and Natural Resources; and
21. comply with any other conditions that may be imposed by the Department, the Board of Land and Natural Resources, and/or the Chairperson.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

APPROVE FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson

Attachment

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

October 22, 2004

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Request to Use Diamond Head State Monument for the Hawaii International Music Conference

The Hawaii International Music Conference (HIMC) has requested permission to hold a one-day music event in Diamond Head Crater. They are organizing a statewide five-day conference, which will include a number of events including concerts, workshops, seminars, and exhibits. They envision the concert in Diamond Head as the centerpiece attraction of the conference.

The date of the event is not finalized but, if permitted, the event will occur between November 2005 and April 2006. The actual date will be finalized based upon the availability of key artists and local participants. The HIMC plans to develop a television special and generate worldwide publicity featuring international music stars and local artists. They are preparing to accommodate 7,500 paying patrons for the event.

Event organizers have attended neighborhood board meetings and meetings of the Diamond Head Citizen Advisory Committee (DHCAC) to share this idea and hear concerns expressed by community members. The DHCAC did not take a position on this issue as of the date the submittal was prepared. They are scheduled to meet on October 20, and will probably have a position to share with the Board. Staff understands that sentiments of the DHCAC are in opposition to this, and any similar event.

Multiple issues were raised by neighborhood board members and the DHCAC related to logistics, parking, traffic, fire, noise, security, sanitation, consistency with the Diamond Head Master Plan Update and setting a precedent for future events. The applicant's solutions to the issues raised are outlined in the attached "Community Concerns and Solutions" and are briefly addressed below.

Included in the Diamond Head State Monument Master Plan Update Environmental Impact Statement (EIS), as Appendix H, is the Social Impact Assessment and Revenue Analysis (EIS-SIA), which addresses some of these issues. The EIS-SIA addresses both "probable issues and concerns" as well as "probable actual impacts" which various communities associated with the crater may express. The EIS-SIA states:

as amended
Approved by the Board of
Land and Natural Resources
at its meeting held on

10/22/04

“Exhibit 1-A on the following page summarizes the contents of Chapter 2, the social impact analysis. It considers probable issues and concerns (although these will be supplemented by comments and hearings in the actual planning process) and likely actual social impacts for various “communities of interest.” (EIS-SIA Page 1-5)

“EXHIBIT 1-A: SUMMARY OF SOCIAL IMPACT ASSESSMENT” (EIS-SIA Page 1-6)

<u>Affected Community</u>	<u>Probable Issues & Concerns</u>	<u>Probable Actual Impacts</u>
<u>Community of Nearby Residents</u> (especially those living in neighborhoods very close to Diamond Head)	<ul style="list-style-type: none"> -Noise and litter; repetition of nuisances from early use of Crater for concerts, etc. -Traffic/parking concerns -Size of interpretive center -Effects of fees on neighborhood access (jogging, etc.) -Perceived inequities if State erects structures when nearby residents limited by DH Special Design District 	<ul style="list-style-type: none"> -Fees may actually reduce number of visitors to area -Traffic/parking is key to real level of impact. Potential for conflicts over use of Kapiolani Community College parking lot, vehicle spilling over into residential streets. -If this can be well handled through good planning, then actual impacts likely neutral as most changes will be inside, not outside, Crater.

“Because of previous public use of the Crater for concerts in the 1960s and early 1970s, nearby residents may be expected to express concern about noise and litter if Crater attendance increase and/or the visitor/interpretive center is used for any sort of live performance”. (EIS-SIA Page 2-4)

Thus noise and litter, repetition of nuisances from early use of the crater for concerts and traffic/parking concerns were listed as “probable issues and concerns”. However the EIS-SIA goes on to state that if these issues are addressed, increased use of the crater will have little effect on area residents.

“The most obvious “community” consists of nearby neighbors. Because of the Crater’s previous history for rock concerts in the 1960s and early 1970s, it is expected that neighbors will have a great sensitivity to possible effects of new operations there. However, the factor which will most seriously affect the surrounding neighborhoods will be traffic and parking – whether the proposed move to outside parking will result in Crater visitors’ cars or other vehicles overflowing on to residential streets or other parking lots in the area. This is the domain of traffic consultants and planners rather than of a social impact consultant. If these concerns can be effectively addressed, we would expect that developments inside the Crater will have little effect on area residents”. (EIS-SIA Page 1-5)

“Probable ‘Actual’ Impacts (Following Project Completion): The most important likely actual impact of project development would involve traffic and parking consequences, rather than conventional ‘social’ consequences such as crime or community disruption. Should outside parking be located at the old Cannon Club site, immediate neighbors would face a resumption and perhaps magnification of the sort of noise, traffic, and evening lights previously experienced when the Club was in operation – although landscaping and other site improvements are expected to minimize much of this impact. The combination of outside parking and parking fees could well result in more people trying to park in the Kapiolani Community College lot (or, if daily rates at the Diamond Head lot are cheaper than student rates at KCC, the reverse problem might occur). It is also possible fees could encourage spillover parking onto neighborhood streets”. (EIS-SIA 2-5)

“While these are serious community concerns, they are also the focus of serious study by the project’s planners and traffic consultants, who are expected to provide recommendations for dealing with them. These aside, from a strictly ‘social’ perspective, the project is likely to have an overall neutral impact on surrounding communities”. (EIS-SIA Page 2-5)

Thus the proposed event intends on addressing both the “probable issues and concerns” as well as the “probable actual impacts” by developing a thorough plan to deal with community concerns. Patrons will be restricted to approved areas, thus limiting them from wandering into unauthorized areas.

In order to address the issue of traffic and parking, all tickets to the event will include a shuttle bus pass and patrons will be required to park far from the crater at a remote location. From these parking areas, patrons would be required to board shuttle buses, which will take them to the crater. Shuttle pick-up and return sites being considered include Kalani High School, Kaimuki High School, Aloha Stadium, NBC Area, the Hawaii Convention Center or other remote locations. No on-site parking will be allowed to preclude any traffic and parking congestions in the surrounding community.

The shuttles will have a minimal effect of traffic around the crater. The EIS and Master Plan Update included the use of shuttle buses as a long term solution to parking issues in the area. No walk-ins will be allowed and no tickets will be available the day of the event in keeping with the shuttle plan. Patrons will not be parking in the vicinity of the crater or walking to the event. This will minimize litter, noise and parking/traffic issues. Further security will be in place to prevent unauthorized entry.

The Diamond Head State Monument Planning Report from 1979 addresses other concerns as byproducts of past large events.

“Crater festivals and some other large organized events that have been permitted within the crater since 1969 are being evaluated for future inclusion in the Monument Plan. Erosion, fires, health problems and vandalism were by-products

of past large events, especially when admission was charged. Trespassing, traffic congestion, and parking problems were created in the exterior areas adjacent to the crater entrance." (Diamond Head State Monument Planning Report Page 35)

To address these concerns the organizer has contacted the Honolulu Fire Department regarding fire safety for the event, and will arrange to have appropriate firefighting equipment on site. Like wise the Honolulu Police Department has been contacted regarding law enforcement issues. In addition, staff will require an evacuation plan in the event of an emergency. Medical personnel will also be present. Consultations with Police, Fire and Medical personnel will continue to be on going to further address the issues of fires, health problems, trespassing and vandalism.

Security for the event will be tight. As stated above, the organizer has contacted the Honolulu Police Department regarding event safety and concerns. The concert seating area will be cordoned off and no one will be allowed access except from the shuttle busses used by concert patrons. Since no one will be allowed to walk in, anyone attempting to sneak in or climb over the crater wall will be escorted from the park. Limiting access and having adequate security will ensure that erosion will not be an issue.

State and County civil defense agencies have also been contacted. DLNR staff have met with the Adjutant General and Director of Civil Defense regarding the proposed event. It does not appear that the event will impact any National Guard facilities and/or activities within the crater.

An evacuation plan will be created and emergency exit signs will be strategically placed throughout the site. Both the Kahala and Mule tunnels would be used in the unlikely event of an emergency evacuation.

As stated above, the Diamond Head State Monument Planning Report, which was prepared in 1979, established a policy that large crater festivals be phased out as park development takes place within Diamond Head Crater. Subsequent to that plan the Department prepared the Diamond Head Master Plan Update. In December 1999, the Land Board accepted that plan with the understanding that the plan would be revised to include "accommodation of occasional outdoor community gatherings in the crater."

BLNR Meeting - December 10, 1999, Item E-3, Decision on the acceptance of the Diamond Head Master Plan Update:

"The Board accepted the Master Plan Update with the understanding that the Master Plan will be revised to consider:

2. Accommodation of occasional outdoor community gatherings in the crater"

The BLNR Land Board meeting minutes further state:

"The Governor (Cayetano) is supportive of the plan and is prepared to seek funding from the State Legislature to begin detailed design. However, he asks that the Board consider making an amendment to the Draft Environmental Impact Statement (EIS) that supports an occasional open-air gathering area for the community."

Accordingly, the EIS Support Statement includes a provision "providing open spaces within the crater for picnicking and community activities" (EIS Page 29).

The intended event is consistent with both the Master Plan Update and EIS, and as described previously, adequate measures will be taken to assure minimal impact to the park as well as the surrounding neighborhood.

A concern, which has been raised, is that the proposed festival does not meet the 1979 Diamond Head State Monument Planning Report or the Master Plan Update policies and objectives. The 1979 Diamond Head State Monument Planning Report, Plan Policies states:

"4. That large crater festivals be phased out as park development takes place within Diamond Head crater, and any large commercial use that may detrimentally affect the environment of the crater be restricted." (Diamond Head State Monument Planning Report Page 56)

In 1995 the DHCAC amended the 1979 Diamond Head State Monument Planning Report's Policies. Policy 4 was revised to state:

"Policy 4. That large gatherings and any commercial use not be allowed, and that any use which may detrimentally affect the natural crater environment of Diamond Head State Monument be prohibited, including non regulated vendors and non profit activities." (Master Plan Update Page 70)

However, the Master Plan Update also clearly states:

"The objectives and policies were reviewed and portions of the policies were amended and approved by the Diamond Head CAC on November 16, 1995, but were not formally adopted by the Board of Land and Natural Resources." (Master Plan Update page 69)

Thus although the DHCAC developed the policies and objectives included in the plan, the Land Board did not formerly adopt them. These policies serve as a guide in the development of the plan rather than actual policies, which would restrict or limit certain activities. Further the December 10, 1999, Land Board approval of the Master Plan Update was contingent upon the Master Plan Update accommodating occasional community gatherings in the crater.

The EIS further states:

"As such this proposal should be considered as an update to the 1979 plan rather than a completely new master plan. In the face of a significant increase of visitors to the crater since 1979, the following proposal would reinforce these common elements by: -providing open spaces within the crater for picnicking and community activities" (EIS Page 29).

There have been some who further feel the proposed event is inconsistent with the Master Plan Update and EIS because the Master Plan Update states:

"Over the years, numerous alternative uses for the crater have been proposed. Examples of these potential use alternatives considered have included a zoo, golf course, theme park, active recreation (ball fields/tennis, etc.), camping, and facilities for festivals and other large events. However, introduction of artificial or man-made elements into the crater that would detract from a 'semi-wild' interior park were rejected as being inconsistent with the objective and policies established for the crater (1979, and amended in 1995)." (Master Plan Update Page 71)

However the event is not inconsistent with the Master Plan Update because the event does not propose developing permanent facilities for festivals and other large events. The organizers have indicated that the event will be for one day and most likely in the late afternoon/evening. They will need to begin setting up the temporary stage and other support facilities several days in advance, and breakdown and cleanup occurring a day or two after the event. Park closure is requested to the day of the event. No permanent facilities will be developed, thus not permanently distracting from the parks natural environment.

Along this same line, there has also been confusion over whether public gatherings are allowed in a Conservation District, since Diamond Head is within the State Conservation District. However since the event equipment and structures will only be in the crater for a week and then taken down, the event does not qualify, as a "land use" as thus conservation district rules do not restrict the event.

A letter from Sam Lemmo, Administrator of the Office of Conservation and Coastal Land, received October 6, 2004 states:

"Chapter 183C, Hawaii Revised Statutes and Chapter 13-5, Hawaii Administrative Rules are the applicable statute and rule governing land uses within the Conservation District. Under Section 13-5-2 Definitions, "Land use" means:

The placement or erection of any solid material on land if that material remains on the land more than fourteen days, or which causes a permanent change in the land area on which it occurs.

Since the proposed concert activities will not exceed fourteen days, nor is the event anticipated to cause a permanent change to the land in Diamond Head

Crater, Conservation laws do not govern the activity and no Conservation District Permit is required."

DLNR has consulted the City and County of Honolulu, Planning and Permitting Division regarding the proposed event. Based on the nature of the proposed event, the event will not require any City and County of Honolulu administered permits.

Eric Crispin, Director of Planning and Permitting for the City and County of Honolulu, states in his October 14, 2004 letter that:

"As long as all Diamond Head Crater Music Event activities take place within the State Conservation District, which is under State jurisdiction and is not subject to City land use laws (i.e., the Land Use Ordinance), a Diamond Head Special District permit will not be required."

"Based on the submitted information, and as discussed above, we have determined that the event will not have an impact on coastal resources. As such, a Special Management Area permit will not be required for this event."

There has also been confusion regarding whether an event is allowed at the park because it is a National Natural Landmark and a State Monument. Diamond Head's status as a National Landmark and State Monument does not prevent it from being used as a concert venue. Ensuring that adequate security personnel are in place before, throughout and after the event, will keep people from accessing unauthorized areas.

Patrons will enter the crater directly after exiting the shuttle buses. Throughout the event they will be restricted to the grass field where the event will take place. No patrons will be allowed anywhere else within or outside of the crater. Thus the event will have no effect on any historic areas of the park.

This is further documented in the Diamond Head State Monument Master Plan Update Environmental Impact Statement (EIS) Appendix D, Historic Research and Archaeological Assessment (HRAA) which states:

"In 1968, Diamond Head was designated a National Natural Landmark. However, the designation was essentially a 'special award', as there are neither rules nor regulations that accompany the landmark status, conservation being the responsibility of the landowner." (HRAA Page 30)

Further the letter submitted by Holly McEldowney, Acting Administrator for the Division of Historic Preservation, received on October 4, 2004 states:

"Diamond Head State Monument in its entirety is not on the National or State Register of Historic Places."

"Diamond Head State Monument is also honored with the title as National Natural Landmark. However, there are no rules or regulations for this awarded title."

“Given that the event will not entail any long term or permanent improvements, we believe that no historic properties will be affected by the proposed event.”

Yet another concern that has been raised is that this event may be setting a precedent for future events. However permits such as this will be reviewed on a case by case basis. This event does not set a precedent. The Land Board will review applications and decided on their merits if any should come forward. There is no reason that the Land Board will automatically issue future permits.

The applicant has made a commitment to the event. The applicant has proposed the creation of a Foundation, to be specifically earmarked for significant long term improvements and maintenance of Diamond Head. The concert is designed to generate revenue for the Foundation, which will grow each year. Concert organizers envision depositing at least \$50,000 of event proceeds into the Foundation account. HIMC will meet with the Diamond Head Citizen’s Advisory Board to work cooperatively to determine how to allocate the funds to support implementation of elements in the Diamond Head Master Plan Update. The Board has the authority to issue a permit for this activity.

RECOMMENDATION:

That the Board find that the event will have minimal or no significant effect on the environment.

That the Board authorize issuing a permit for the closure and use of Diamond Head State Monument for the Hawaii International Music Conference subject to the following conditions whereby the permittee shall:

- 1. have the Event held within the confines of the crater;**
- 2. provide security for the Event;**
- 3. procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$2,000,000 for each occurrence and \$4,000,000 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire Event Site, including all grounds and all roadways or sidewalks on or adjacent to the Event Site in the use or control of the Permittee;**
- 4. be authorized to collect entry fees for the event and collect funds for food and beverages, event mementos and/or other related concert items within the park during the event.**

5. be allowed to film and/or record the event and distribute these materials with no additional fees or royalties paid to the State.
6. operate food service in compliance with all applicable State Department of Health rules and regulations;
7. waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agrees to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of and in any way connected with the activities permitted under the permit;
8. provide a site plan, transportation, parking and access plan, fire plan, security plan and evacuation plan to be approved by the Chairperson prior to the event;
9. be responsible for cleanup of the Event Site;
10. be liable for repairs, replacement and/or payment for any damages incurred at the Event Site during the period of this permit;
11. comply with any other conditions that may be imposed by the Department, the Board of Land and Natural Resources, and/or the Chairperson.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

APPROVE FOR SUBMITTAL:



for PETER T. YOUNG, Chairperson

AMENDMENT: Add to Recommendation Section:

12. Staff is required to provide a report to the Board before and after the event discussing what the impacts were and how they were mitigated.
13. Hawaiian music performers must be included in the event.
14. The event organizer is required during the course of the event to conduct a briefing, which will include the cultural and natural significance of Diamond Head Crater.

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

June 23, 2006

as amended
Approved by the Board of
Land and Natural Resources
at its meeting held on
6/23/06

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Request to Use Diamond Head State Monument Once a Year for Two Years for the Diamond Head Crater Celebration

GM Entertainment has requested permission to hold a one-day music event annually for two consecutive years at Diamond Head State Monument. The Diamond Head Crater Celebration (DHCC), held on April 1, 2006, was a successful event, with over 6,000 in attendance. GM Entertainment abided by all the conditions set by the Board when they approved the event on October 22, 2004 (attachment 1). The DHCC had no significant effects on the natural resources of the Monument, and minimal impacts on the surrounding community.

In the October 22, 2004 Board submittal (attachment 1), multiple issues and concerns raised by neighborhood board members and the Diamond Head Citizen Advisory Committee (DHCAC) were addressed, including logistics, parking, traffic, fire, noise, security, sanitation, consistency with the Diamond Head Master Plan Update and setting a precedent for future events. GM Entertainment proposed solutions to many of these concerns, which were also presented in the Board submittal. In response to these concerns, the Board's approval placed numerous conditions upon the applicant.

GM Entertainment will attend neighborhood board meetings and meetings of the DHCAC to share their proposal for additional Crater Celebrations and hear concerns expressed by community members. The DHCAC has taken a position opposing these events at Diamond Head State Monument.

If permitted, the events would occur in Spring 2007 and Spring 2008. The actual date will be finalized based upon the availability of key artists and local participants. GM Entertainment is preparing to accommodate 7,500 paying patrons for each event.

Attached are letters of support from various government, travel industry, entertainment and other entities in support of future Diamond Head Crater Celebrations (attachment 2). In addition, GM Entertainment staff attended several Neighborhood Board meetings after the concert, and attached are their comments (attachment 3).

The success of the Diamond Head Crater Celebration has demonstrated that such events can be held within Diamond Head State Monument with minimal to no significant effect on the resources and the surrounding community. Events such as these in the Monument can also be a source of revenue for the Department and the Division of State Parks with these funds being used

to improve visitor services at Diamond Head State Monument and other State parks. Both the State (Aloha Stadium) and the City and County of Honolulu (Waikiki Shell) have venues, which hosts events similar to the Diamond Head Crater Celebration. Exhibit 1, provides the rates charged for such events as a comparison for the event at Diamond Head State Monument.

Exhibit 1: Waikiki Shell and Aloha Stadium Rates for Similar Events

<u>Venue Location</u>	<u>Rates</u>
Waikiki Shell: (City & County of Honolulu)	
Deposit (non-refundable)	\$1,354.00 (not applicable to % rental rate)
Percentage Rental Rates	
-- April to August	10% gross receipts (ticket sales) to \$75,000.00, plus 8.5% gross receipts from \$75,000.01 to \$150,000.00, plus 5% gross receipts from \$150,000.01
-- September to March	8.5% gross receipts up to \$150,000.00, plus 5% gross receipts over \$150,000.01
Food and Beverage	32% gross receipts to City (68% to Concessionaire)
Merchandise (event mementos)	30% gross receipts to City/Concessionaire (70% to Act)
Aloha Stadium: (State of Hawaii)	
Deposit (non-refundable)	Varies with type of event (maybe applicable to % rental rate)
Percentage Rental Rates	10% gross receipts (ticket sales)
Food and Beverage	40% gross receipts to State (60% to Concessionaire)
Merchandise (event mementos)	40% gross receipts to State/Concessionaire (60% to Act)

RECOMMENDATION:

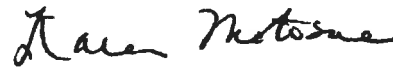
Based on the positive experience with the Diamond Head Crater Celebration held on April 1, 2006, it is recommended that the Board authorize issuance of a permit for the closure and use of Diamond Head State Monument on one day in 2007 and 2008 for the DHCC, and that the Board authorize the Department to enter into an Agreement with GM Entertainment, subject to the following conditions whereby the permittee shall:

1. hold the Event held within the confines of the crater;
2. coordinate with the appropriate Department of Defense entities;
3. sign an Agreement with the Department and pay a non-refundable deposit of \$2,100.00 to the Division of State Parks to reserve the Monument at least 90 days prior to the Event;
4. pay the Division of State Parks 5% of gross ticket sales for rental of the Monument for the Event;

5. pay for security by Division of Conservation and Resources Enforcement Officers during set-up and take-down for the Event, and whenever Event personnel are on-site in the Monument;
6. provide and pay for security for the Event, in addition to the Division of Conservation and Resources Enforcement personnel;
7. procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$2,000,000 for each occurrence and \$4,000,000 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire Event Site, including all grounds and all roadways or sidewalks on or adjacent to the Event Site in the use or control of the Permittee;
8. be authorized to collect entry fees for the event and collect funds for food and beverages, event mementos and/or other related concert items within the park during the event, and to pay the Division of State Parks 5% of gross receipts of food, beverage, event mementos and/or other related concert items (merchandise) during the Event;
9. sell alcoholic beverages in compliance with all City and County of Honolulu Liquor Commission rules and regulations;
10. operate food service in compliance with all applicable State Department of Health rules and regulations;
11. be allowed to film and/or record the event and distribute these materials with no additional fees or royalties paid to the State;
12. waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agrees to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of and in any way connected with the activities permitted under the permit;
13. provide a site plan, transportation, parking and access plan, fire plan, security plan and evacuation plan to be approved by the Chairperson prior to the event;
14. be responsible for clean-up of the Event Site;
15. be liable for repairs, replacement and/or payment for any damages incurred at the Event Site during the period of this permit;
16. provide (by Division of State Parks staff) a report to the Board, before and after the Event, discussing what the impacts were and how they were mitigated;

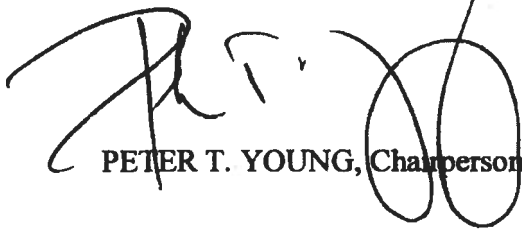
17. include Hawaiian music performers in the Event;
18. require, during the course of the Event, to conduct a briefing, which will include the cultural and natural significance of Diamond Head State Monument;
19. authorize the Chairperson to negotiate and sign the final agreement on behalf of the Department and the Board of Land and Natural Resources; and
20. comply with any other conditions that may be imposed by the Department, the Board of Land and Natural Resources, and/or the Chairperson.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

APPROVE FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

Attachments

AMENDMENT:

"21. the agreement is subject to the review and approval of the Office of the Attorney General."

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

March 24, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Briefing to the Board on the Status of the Diamond Head Crater
Celebration at Diamond Head State Monument, Oahu

During the meeting held on October 10, 2004, the Land Board requested a briefing, prior to the Diamond Head Crater Celebration (the Event), on what the Event organizer has done to mitigate the impacts to the Monument and surrounding community.

The Event organizer has addressed parking/access, transportation, travel routes, American with Disabilities Act (ADA) issues, security, evacuation/fire, and clean-up. Attached is a Site Plan (Attachment #1) of the Event area.

- **Parking/Access** – Access to Diamond Head State Monument will be restricted to ticketed patrons, and accredited persons only, the day of the Event. All ticketed patrons will park at various off-site locations and be shuttled into the Monument.
- **Transportation** – Ticketed patrons will be shuttled into the Monument using a one-way traffic flow to maximize effectiveness and safety. The reverse one-way traffic flow will be utilized at the end of the concert to return patrons to their off-site parking locations.
- **Travel Routes** – The routes were developed in coordination with the Honolulu Police Department to lessen the impact of traffic on the surrounding community.
- **Security** – Private security, DLNR's Division of Conservation and Resources Enforcement, the Hawaii Army National Guard security and the Honolulu Police Department are coordinated as part of the security plan to address: security of the event site, event site access control, and traffic control.
- **Evacuation/Fire Plan** – The Event organizer has developed an evacuation plan in case of an emergency. In addition, the Event organizer has coordinated with the Honolulu Fire Department to develop a fire evacuation plan in case of a fire in the Monument crater during the Event. The Fire Department will also station a Fire truck inside the crater during the Event. Finally, an ambulance and supporting medical staff will be present inside the crater during the Event.

- American with Disabilities Act (ADA) Issues – The Event organizers has designated seating, transportation, and an evacuation plan for ticketed patrons under ADA.
- Clean-up – The Event organizer will be responsible for the clean-up of the event site during the Event and will be responsible for clean-up after the Event at the Monument and ancillary locations.

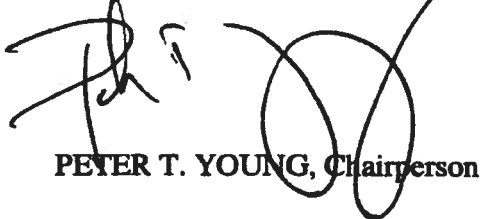
In addition, the Land Board also requested a briefing, after the Event, on the results of the mitigations for the Event at a future Land Board meeting.

Respectfully submitted,



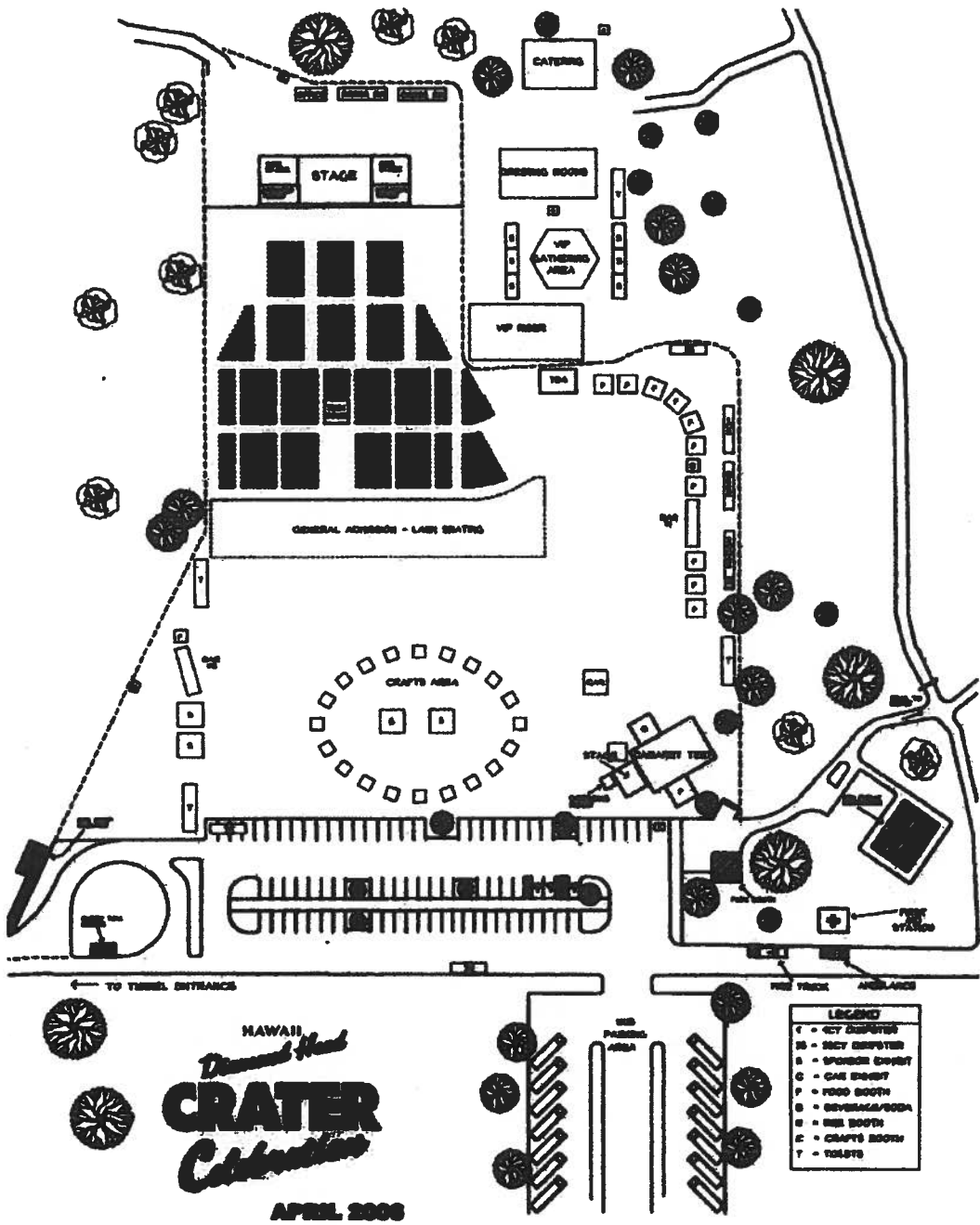
DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

Attachment



State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

June 23, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Briefing to the Board on the Diamond Head Crater Celebration at Diamond Head State Monument

During the meeting held on October 10, 2004, the Land Board requested, as a condition of its approval of the Diamond Head Crater Celebration (the Event), pre-concert and post-concert briefings. The pre-concert briefing occurred during the Land Board meeting of March 24, 2006. This post-concert briefing will focus on the results of the Event impacts and mitigations to the Monument and surrounding community. Attached are the original Land Board Submittal of October 22, 2004, approved with amendments (attachment 1), and the pre-concert briefing to the Land Board of March 24, 2006 (attachment 2).

The Diamond Head Crater Celebration (DHCC) was overall a successful event, with over 6,000 people attending. The impacts to the natural resource were relatively minimal, especially considering the difficult situation created by the heavy rains over the six weeks prior to the Event, resulting in very muddy conditions inside the crater. The impact on the surrounding community was also relatively minimal due to the Event's transportation/parking plans and security. However, there was a public impact, given that the park closed the day of the concert, and public access was somewhat limited the day before and after the concert due to the loading/unloading of concert materials on site.

Prior to the Event, concerns that had been expressed by neighborhood board members and the Diamond Head Citizen Advisory Committee (DHCAC) related to logistics, parking, traffic, fire, noise, security, sanitation, consistency with the Diamond Head Master Plan Update and setting a precedent for future events. Overall, few complaints were reported to the Department regarding the Event.

At the Waialae-Kahala Neighborhood Board meeting after the concert, there was a complaint about a bus making a right turn at Diamond Head Theater resulting in traffic being backed-up. However, the Waialae-Kahala Neighborhood Board's overall assessment was positive (attachment 3, Neighborhood Board Comments). Clark Hatch of the East Diamond Head Community Association, which is adjacent to the Monument, observed that the impact to the community was minimal and that there was only one instance of someone trying to park for the concert in their neighborhood. State Parks received a complaint from an individual related to Americans with Disabilities Act

(ADA) access issues, but that complaint proved irrelevant (a disabled individual wanted access to the Event without purchasing a ticket).

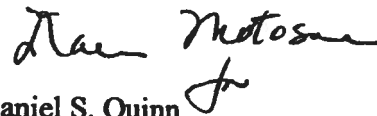
The Event organizer addressed the conditions in the Board approval:

- The Event was held within the confines of the crater;
- The Event organizers provided security – private security, DLNR's Division of Conservation and Resources Enforcement, the Hawaii Army National Guard security and the Honolulu Police Department – as part of the security plan to address security of the event site, event site access control, and traffic control.
- The Event secured the required insurance, naming the State of Hawaii as an additional insured;
- The Event organizers were in compliance with all applicable rules and regulation of the State Department of Health and the City and County of Honolulu Liquor Commission;
- The Event organizers provided a site plan, transportation, parking and access plan, fire plan, security plan, evacuation plan, and ADA access plan that was approved by the Chairperson prior to the Event:
 - Parking/Access – Access to Diamond Head State Monument was restricted to ticketed patrons, and accredited persons only, the day of the Event. All ticketed patrons parked at various off-site locations and were shuttled into the Monument;
 - Transportation – Ticketed patrons were shuttled into the Monument using a one-way traffic flow to maximize effectiveness and safety. The reverse one-way traffic flow was utilized at the end of the concert to return patrons to their off-site parking locations;
 - Travel Routes – The routes utilized were developed in coordination with the Honolulu Police Department to lessen the impact of traffic on the surrounding community;
 - Evacuation/Fire Plan – The Event organizer developed an evacuation plan in case of an emergency. In addition, the Event organizer coordinated with the Honolulu Fire Department to develop a fire evacuation plan in case of a fire in the Monument crater during the Event. The Fire Department also stationed Fire Department staff inside the crater during the Event. Finally, an ambulance and supporting medical staff were present inside the crater during the Event; and

- The Event organizers designated seating, transportation, and an evacuation plan for ticketed patrons under American with Disabilities Act (ADA). This information was available on the Event's website and at Ticketmaster's information section;
- The Event organizer kept the site clean during the Event and cleaned-up after the Event at the Monument and ancillary locations;
- The Event organizer satisfactorily repaired damage in the Event site that resulted from the wet, muddy conditions and their use of heavy vehicles and equipment;
- The Event organizer included Hawaiian music performers in the Event, including Kenny Endo's Taiko Center of the Pacific, Sonny Ching with Halau Na Mamo O Puuanahulu, the Honolulu Symphony with Na Leo and Yvonne Elliman. In addition, Sonny Ching presented a briefing on the cultural and natural significance of Diamond Head State Monument (attachment 4).

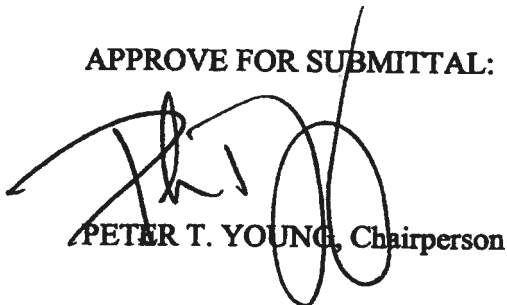
Finally, as stated in the Board submittal of October 22, 2004, the Event organizer plans to donate \$10,000.00 to the Diamond Head State Monument Foundation to further the implementation of the Diamond Head State Monument Master Plan.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

APPROVE FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

Attachments

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

May 11, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Briefing to the Board on the Status of the Diamond Head Crater
Celebration at Diamond Head State Monument, Oahu

During the meeting held on June 23, 2006, the Land Board approved the issuance of a permit for the closure and use of Diamond Head State Monument on one day in 2007 (May 19, 2007) for the Diamond Head Crater Celebration (the Event). In addition, the Land Board requested a briefing, prior to the Event, on what the Event organizer has done to mitigate the impacts to the Monument and surrounding community.

The Event organizer applied the plans successfully utilized during the 2006 concert to address parking/access, transportation, travel routes, American with Disabilities Act (ADA) issues, security, evacuation/fire, and clean-up.

- **Parking/Access** – Access to Diamond Head State Monument will be restricted to ticketed patrons, and accredited persons only, the day of the Event. All ticketed patrons will park at various off-site locations and be shuttled into the Monument.
- **Transportation** – Ticketed patrons will be shuttled into the Monument using a one-way traffic flow to maximize effectiveness and safety. The reverse one-way traffic flow will be utilized at the end of the concert to return patrons to their off-site parking locations.
- **Travel Routes** – The routes were developed in coordination with the Honolulu Police Department to lessen the impact of traffic on the surrounding community.
- **Security** – Private security, DLNR's Division of Conservation and Resources Enforcement, the Hawaii Army National Guard security and the Honolulu Police Department are coordinated as part of the security plan to address: security of the event site, event site access control, and traffic control.
- **Evacuation/Fire Plan** – The Event organizer has developed an evacuation plan in case of an emergency. In addition, the Event organizer has coordinated with the Honolulu Fire Department to develop a fire evacuation plan in case of a fire in the Monument crater during the Event. The Fire Department will also station a Fire truck inside the crater during the Event. Finally, an ambulance and supporting medical staff will be present inside the crater during the Event.

- American with Disabilities Act (ADA) Issues – The Event organizers have designated seating, transportation, and an evacuation plan for ticketed patrons under ADA.
- Clean-up – The Event organizer will be responsible for the clean-up of the event site during the Event and will be responsible for clean-up after the Event at the Monument and ancillary locations.

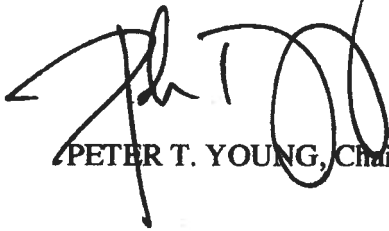
In addition, the Land Board also requested a briefing after the Event. That briefing will include discussion of the results of the mitigations for the Event and will be presented at a future Land Board meeting.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

May 11, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Briefing to the Board on the Status of the Diamond Head Crater
Celebration at Diamond Head State Monument, Oahu

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- **Transportation** – Ticketed patrons will be shuttled into the Monument using a one-way traffic flow to maximize effectiveness and safety. The reverse one-way traffic flow will be utilized at the end of the concert to return patrons to their off-site parking locations.
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- Clean-up – The Event organizer will be responsible for the clean-up of the event site during the Event and will be responsible for clean-up after the Event at the Monument and ancillary locations.

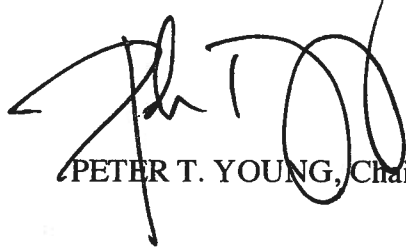
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Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

DIAMOND HEAD CITIZEN'S ADVISORY COMMITTEE**Established October 1977****Criteria for Recreational Uses of Diamond Head State Monument Crater Park**

The Diamond Head Citizens Advisory Committee (DHCAC) is recognized in the Hawaii Revised Statutes as advisory to the DLNR on matters respecting the Diamond Head State Monument Plan and its implementation. The Diamond Head State Monument Master Plan Update (Master Plan) provides long-standing guidelines for permissible activities within the crater park as compatible with the attributes and environment of this natural resource.

As provided by Chapter 6E-32c, Hawaii Revised Statutes, the DHCAC is advisory to the DLNR on the implementation of the Master Plan in accordance with Act 313, 1992. Consistent with these directives and per request of Chairperson Thielen, the DHCAC has refined the criteria guiding public use of the Diamond Head State Monument Crater Park, and respectfully submits the following for adoption by the Board:

Purpose. Diamond Head State Monument Crater Park's public uses must be compatible with the natural crater resource and the intentions and long-term goals of its Master Plan that relate to the resource's scenic experiences of sightseeing, picnicking and hiking, as defined on page 49 of the Master Plan. Special gatherings that support the unique natural, educational and native cultural qualities of Diamond Head may be permitted a) in conjunction with the crater's natural and cultural resources management; b) in connection to the study and support of the Monument's interpretive and educational programs about the geology, military history and Hawaiian mores regarding Diamond Head.

1. In consonance with its dedication, the Diamond Head State Monument crater park "shall remain open to the public from sunrise to sunset every day of the year." Permitted group gatherings shall not cause closure of the crater park to the public at any time.
2. To ensure protection and preservation of the resource, up to 400 people maximum at any one time may be permitted in the crater for group gatherings and activities as approved by DLNR with necessary consideration of public safety concerns and parking limitations. A copy of the permit with a site map of the location of the gathering should be posted at the park's Visitor Information Center.
3. Permitted gatherings and group activities within the crater shall support the Master Plan intent, goals and purposes, and shall respect the unique qualities of Diamond Head through enriching public experiences with public educational, cultural, and/or recreational value that link the proposed gathering and activity to this National natural and State historic resource.

4. Permitted gatherings shall be self contained and shall occur only between the hours of 9 am and 9 pm at any time on any one day. Such gatherings shall be non-profit activities consistent with the environmental, Hawaiian cultural and historic nature of the Monument, and may support fundraising for the Crater through the Diamond Head State Monument Foundation.
5. Permitted gatherings shall not interfere with the larger public's use and experience of Diamond Head's crater floor, interior slopes and summit trail, and shall not deny access to improved park areas such as roadways, parking area, restroom facilities, botanical landscaped area, trails, etc.
6. Vehicle parking for permitted group gatherings shall be either outside the Monument or located away from the crater park's visitor parking lot.
7. Disturbance of other park users and neighboring residents with noise exceeding 70 dB at the source will not be allowed.
8. To ensure public safety, comfort and protection of the resource, group activities will not be allowed in the crater during inclement weather or natural disasters, including heavy rains, flooding, hurricanes, tsunamis and earthquakes, and will be cancelled if scheduled. Rescheduling of group gatherings shall be subject to all conditions imposed by the original permit.
9. Public safety and fire protection are paramount. Controlled substances, smoking, open fires, incendiary devices including pyrotechnic explosives, and weapons including knives and guns, shall not be permitted or brought into the crater at any time. The permittee shall be responsible for security and control of the gathering, including off-duty enforcement officers as may be required.
10. Any proposed group activities shall comply with all government rules and regulations as described on pages 10 - 14 of the Master Plan, as well as all procedures in place with fire and police departments, civil defense, and any and all agencies with bearing on or affected by the activity including crater ingress and egress.
11. At least three (3) weeks advance public notice shall be required prior to group gatherings, with the permittee posting public notice at the Visitor Information Center in the crater park, on the DLNR web site, and in local newspapers and tourism news publications.
12. DLNR user fees shall be pre-paid together with a refundable mandatory security deposit for any damages, and resulting restoration of the activity area should this be necessary. For group gatherings exceeding 25 participants or using the crater park during a majority of the park's open hours, a park user fee shall apply. Group activities exceeding 50 participants shall be bonded and shall provide a certificate of insurance for liability, loss and damage.

13. All group gatherings shall be responsible for their own logistics, preparation and removal of supplies and equipment that may include water, portable seating and tables, required toilets, safety protection and other necessities. Permittees shall ensure that their activity does not incur cost to the state, burden DLNR staff, or cause damage of any sort without full repair.
14. Special Conditions for group use of the Monument shall be attached to the permit to ensure that the permittee shall:
 - Obtain all permits from other government agencies as may be required;
 - Waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agree to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of or in any way connected with the activities permitted under the permit;
 - Procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$2,000,000.00 for general aggregate and \$1,000,000.00 for each occurrence, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii, State Parks, and an additional insured. The insurance shall cover the entire Permit area, including all grounds and all roadways or sidewalks on or adjacent to the Permit area in the use of control of the Permittee.
 - Acknowledge and agree that Hawaii Administrative Rules 13-146, Subchapter 5 is incorporated as part of the permit, and comply with other conditions that may be imposed by the Chairperson, Board, or Department of Land and Natural Resources.

Respectfully submitted to the Board of Land and Natural Resources on April 8, 2010
by the Diamond Head Citizens Advisory Committee:

Clark Hatch	1995	East Diamond Head Association
Clyde Hosokawa	2004	1979 Diamond Head State Monument Plan
Janet Gillmar	2003	American Society of Landscape Architects
Luci Creps Pfaltzgraff	1977	Individual
Michelle Spalding Matson	1993	Individual
Nancee Jenko Crispin	2008	Historic Hawaii Foundation
Rick Egged	2003	Waikiki Improvement Association
Sidney Snyder	1977	American Institute of Architects
Susan Bright Spangler	1993	The Outdoor Circle